

NEW HAMPSHIRE STATE BUILDING CODE REVIEW BOARD

Minutes of Meeting

January 9, 2004

Attendance:

Robert Clegg, Chairman, Department of Safety

Jerry Tepe, Board of Architects, licensed architect

James Petersen, PE, Board of Engineers, licensed mechanical engineer

George Maihos, NH Electricians Board, licenses master electrician

Tedd Evans, Board for licensing and regulation of plumbers, licensed master plumber

Bob Longchamps, NH Electrical Contractors Business Asso., licensed master electrician

John Tuttle, NH Home Builders Association, Architectural designer – residential

Kenneth Andrews, NH Building Officials Association, municipal building official

Wes Golomb, State energy conservation code office

Joel Fisher, Board of Engineers, licensed structural engineer

Medard Kopczynski, NH Municipal Association

Excused:

Tyler Carlisle, Board of Engineers, licensed electrical engineer

Absent:

Vacant Position, NH Association of Fire Chiefs, municipal fire chief

Bruce Phillips, NH Association of Fire Chiefs, municipal volunteer fire chief

Fred Baybutt, Associated General Contractors, building contractor – non-residential buildings

Michael Santa, CBO, Governor's Commission on Disability, Architectural barrier/free design

Rick Swain, NH Plumbing & Mechanical Contractors Assoc., mechanical contractor, business

Guests:

Marta Modigliani, Attorney, Department of Safety, Office of the Commissioner

Gary Bernier, NH Municipal Association

With a quorum of the Board present, Chairman Clegg so declared and called the meeting to order at 10:05. Notice of the meeting was posted at the Department of Safety and State House, the State Fire Academy, the New Hampshire Rule Making Register and the Legislative Office Building a minimum of 2 weeks prior to scheduled meeting date.

PUBLIC HEARING:

Chairman Clegg: Item Exhibit 11 – PUC 1800 Energy Code. Wes do you want to open that?

Wes Golomb: Ok thank you.

Chairman Clegg: Not from here – you have to be down there.

Wes Golomb: Oh ok. Sorry. Thank you Mr. Chairman. These Rules were re-written from the old 1800 Rules of PUC to reflect the new Code and there are a couple of places, couple of things that I would like to mention to you. There are few, very few changes, essentially no changes in the Commercial Code, and the Rules that effect the Commercial

Code. Let's talk about the Residential Code. Number 1 – Climate Zone(s): There's 2 climate zones in the Code for the State, the whole State. Climate Zone 15 which is like 95% of the State, and Climate Zone 16 which actually is just a swath at the very very top of what would be Coos County, and I do not believe in the 5 years, that I have had 1 application for a permit in that, what would be Zone 16. So these Rules propose to keep 1 Climate Zone for the whole State, which means we can have one set of Tables, and . . . its less complicated for a builder who's trying to apply. Our . . . there are a few places where the old RSA, well, the current RSA 155-D, has exemptions and provisions in it that are in conflict as Jerry said, or will be in conflict. Those exemptions, in the Code for buildings, I believe its called, 'building standards'. I am sorry, in the RSA. Any building that was built before, was bid before 1979, that was in there, I think that's irrelevant at this point. Towns and cities, prior to August 24th, have enacted, 1979, have enacted a nationally recognized equivalent of the Code, shall be exempt from the provisions. That's still in the RSA, I do not know if it should stay there or not. And finally, Buildings and Structures, portions thereof, which are not heated or cooled, by systems dependent on fossil fuels are exempt. That is also in the RSA and as far as the legal department at PUC goes, because it wasn't only . . . RSA what was it . . . D:2 was changed. So these are not changed. Of the 3 of them, the one that I think is important that needs to stay, is the exemption for non-fossil fuels. What this turns out to be typically, is the person who builds a house, and only has wood heat in there. And that's the only exemptions I've seen for this . . . I've seen . . . there was a couple of questions as to whether geo-thermal would be exempt and the question is since there's . . . that involved electric heat, and the answer we came up with previously was no. So the only time that I've seen a . . . this exemption be relative . . . relevant excuse me . . . is with wood heat. And I think it should stay. And . . . it is in here still. To start building (inaudible) in our 155-D, and that's also in the Code, and I believe should stay, in other words, if you have a historic building, as you are renovating it, you should not have to make . . . bring certain . . . for example, a single pane window with a specific design this protects people from having to you know, replace with modern windows that don't look right in a historic building.

Ok. Another exemption which I think should stay – Green Houses, which are defined as plant growing, which are separate from, I'm para-phrasing here, separate from the envelope of the house, should be exempt. In other words, we could still have somebody heating a green house on a day like today despite the fact that it's got more glass than the Energy Code would. . . would allow for otherwise.

Next, buildings . . . buildings and additions less than 150 square feet have been exempt from the Code in the past. The idea for this was to allow somebody to build a mud room, or a foyer which may be heated or not, but still have it exempt from . . . you know, they don't have to . . . they don't have to follow the Code just for that. For up to 150 square feet.

Ok the next issue is Residential versus Commercial Codes. Currently, the Rule is that a structure up to 4,000 feet is considered Residential for the Code, and above 4,000 feet, a Commercial Building rather, up to 4,000 feet goes with the Residential Code. That is the way it's been up till now. We support keeping it that way, because what we found is there is a tendency for the same builders who are building homes, to be building small Commercial buildings. And this simplifies for the builder, they don't have to learn a second Code, just for a small Commercial building. The 1 change to that that I am proposing . . . again . . . this is not in any Code currently . . . is the following: I am going to suggest that, alright, I put in here that a Commercial Building, that is less than 4,000 square feet, may if they want, show compliance, using the Commercial Code. And the rationale for this is certain . . . there are certain types of structures that have trouble passing the Residential Codes, small . . . and I will give you an example . . . the . . . the gas station convenience store with big glass windows, we have found a number of them where, they do not pass the Residential Code, because the amount of glass and the inefficiency of the windows – but they do pass the Commercial Codes. And I don't think its anybody's intent to keep business like that out of the State, and so, I propose adding to the . . . I propose adding this to the Rules that, you know, under 4,000 feet you can use either the Residential or the Commercial.

Ok. In the Code there is a separation between what's called A-1 Detached 1 and 2 family dwellings, and A-2 Buildings containing multiple dwelling units, such as town houses, road houses, etc. Currently the NH Code does not, or the Rules do not distinguish between A-1 and A-2. And I propose we keep it that way, again for simplicity for builders. This is something that has been going. Most of these discussions that we've had, are Rules that we . . . we've been using and they've been working effectively, and I'm of the . . . if it ain't broke – don't try and fix it' school on this.

Ok. Piping insulation. There is . . . and I have separated these into 2 categories. This will be 1802.02 C3 and 4. Circulating systems in the Code book there is a convoluted (inaudible) that you've got to determine things that use to

determine what the 503.3.1, I see you looking for it, that you've got to use to determine what the R value should be of the insulation. When we looked at it, we found that most installations would be under that and R 4 – so I am proposing we simplify it and just say R 4 and don't make builders go . . . and whoever is designing . . . go and look at a . . . at this Table to figure it out. Ok. That's circulation hot water systems. The next one is non-circulating hot water systems. In other words, domestic hot water running through unheated spaces. When I took this original, maybe 5th out of 40th draft of these Rules around to the Code officials, and the Builders Association, I got a lot of response, a lot of comments that one of the things that we have been leaving out in previous codes, is insulating on . . . insulating heated pipes through unheated spaces. And I got a lot of feedback that we ought to include that, and that's why this is here.

Moving on. Renovations 101.4.1 I am sorry 4.2.2. The old Rule which was the NH specific Rule said, any renovation up to 50% on the value of the structure, before you start the renovation, is exempt. So if you've got a structure it will be a shack these days, worth \$100,000, you could spend, under the old Rules, up to 50% of that – up to \$50,000 and you are still exempt from the Code. The new Rule in the Code say, if you touch it, you bring up to Code. And I do not have a problem with that, I support that. I think is a better Rule, but we've had a couple of problems already. Code officials have called me up, and so we've tried to carve out some exceptions to this. The first one is storm windows installed over existing windows are exempt from this. In other words, you do not have to bring the window up to Code, just because you are putting a storm window on. A basement window in an unheated basement, with an insulated basement ceiling is exempt from the replacement window requirements. And that is really outside of the envelope so that makes sense from that perspective. And if a true divided single pane, white window, is being replaced with like-kind windows, that window is exempt. So in a case where you have somebody with a single . . . all single pane windows and they are replacing 1 window or the sash, that window would be allowed to be replaced without bringing it up to . . . and the new Code for renovations would be a .35 U value, which means they'd have to have basically, a low ER (inaudible) window which your obviously not gonna get with a single pane window. A couple of other exemptions to the renovation Rule we are proposing . . . Existing ceiling, wall or floor cavities exposed during construction, are exempt, provided these cavities are filled with insulation. Storm windows and storm . . . I just found another mistake there. I do not think that is in yours, I think its just in mine. Excuse me. What this does, I had somebody call . . . I've had 3 people actually call me up in the last 6 months saying I opened up a cavity which was empty – it was a 2 x 4 wall and the Code official is now telling me I should put R-19 in there. Well, it's theoretically possible to do – you could put high density insulation in there and probably get about an R-13 or and R-14, but then you have got to take siding off and put rigid insulation over it, and then you've got the issue of if you do that, that the wall is too thick for the windows that are already there and it gets us into areas that I personally don't think are fair to somebody who's tr . . . you know, here's somebody whose a low R insulated, I want to go insulate my walls, but I don't want to open up a (inaudible) where I'm gonna end up having to replace my siding and add insulation outside and replace windows. So that is why that is in there. Construction where the existing roof (inaudible - coughing) is not (inaudible – coughing) would be another exemption. And I think that is almost a repeat of what's in the Code. If you're . . . you're not opening it up, you obviously don't have to fill it up with insulation.

Ok. The current addition package . . . the current NH Rules have a very very lax addition package. It's unlimited glazing .57 U value which is basically clear glass, and the new Code has specific Rules for additions for up to 40% glazing that says nothing about structures that have greater than 40% glass – an addition such as sun rooms – so if we leave this without touching it, this will make it illegal in the State of New Hampshire to put in a sun room. This has been a problem, as I understand it, with the . . . between the Codes . . . the International Code Council and the Sun Room Association for years, and they came up with some compromise language which I understand will be in IECC 2003, and that language allows for more lenient requirements for the envelope but the following . . . the following additional requirements. 1 – that the sun room maintain thermal isolation – in other words, the wall between the sun room and the house is insulated as an outside wall would be. The doors that are the equivalent of doors that would be on the outside of the house. It can't be used as a kitchen or a sleeping room. And it has to be thermostatically controlled with a separate zone or a separate heating system. This way . . . on a day like today for example, the owner could decide to rather than heat the place, to shut it down, and it isn't . . . that wouldn't effect the integrity of the house. So those are . . . we are proposing that the language that will be in IECC 2003 be put into place now, so that we don't drive sun room building out of the State.

And finally, the one other change that . . . well . . . one of the other changes is that we have had an exemption for architects and engineers if an architect or engineer writes a letter with a stamp, that is . . . that shows compliance that says I am going through the process with my office. We have proposed adding to that, simply that the architect or

engineer will state how they determine that this meets the Code. We are not requiring them to show us their (inaudible) or send up a computer print out, but they just have to say we did a (inaudible) calculation, we used (inaudible), we used your performance package, we consulted a crystal ball and a voodoo master, or whatever it is they did. You are just going to let us know how they did it. And it just adds a level of assurance if you will, that the structure meets the code. That's the major changes. There are a couple of places where its very clear to me, and then the emails going around I am sure its clear to some of you, that there are conflicts with RSA 155-D, its probably discussion for another time, but I think we are going to have . . . we are going to need some legislative help with this, to resolve those conflicts. Its certainly not our goal in proposing these Rules, to create more conflict – we are trying to resolve them in a way that's logical and doesn't harm a builder or a person's ability to build what is a reasonable structure. Long winded but I think I have covered most of it.

Chairman Clegg: Ken Andrews:

Ken Andrews: A couple of questions for Wesley. On some of the stuff that you were reading, I was trying to follow along, I thought, I think I was in the right spot in the same spot as Exhibit 11 that we were suppose to be but a lot of the stuff you were mentioning was not spelled out in here. For instance, you had talked about and suggested specifically (inaudible) remodel and so forth, is there stuff in here that is not . . . and I am talking technical stuff in here . . . that's not actually in the Code.

Wes Golomb: Technical stuff in the Rules.

Ken Andrews: For instance, you have talked as I said, only grab the easy (inaudible – speaking too fast) you said you have to comply for an exemption (inaudible).

Wes Golomb: Um hum (indicating yes)

Ken Andrews: I didn't read that in what I was following along in.

Wes Golomb: Ok.

Ken Andrews: I did read about the exemption about the glass and the single pane glass that nothing about for instance (inaudible).

Wes Golomb: (inaudible –2 speaking at once)

Ken Andrews: Is that something we want in the Rules, or are you just trying to explain the changes?

Wes Golomb: We are actually replacing an existing (inaudible) frame. That is the intent, I thought it was in there, but . . .yes you are right. Can we make an E there? Is this appropriate to do it at this point?

Chairman Clegg: Sure go ahead.

Wes Golomb: Ok. E . . . replacement of cellar or basement windows in unheated basements. And actually, I am not even sure that that needs to go in there.

Ken Andrews: (Speaking with Wes at same time) That is what I was getting at.

Wes Golomb: Yea. Because an unheated basement is outside of the Code. I mean, its not part covered by the Code. So . . .

Chairman Clegg: Keep going.

Ken Andrews: Ok my point would be, my point would be when you're discussing that, and its not here, why wouldn't it absolutely fall under B anyway?

Wes Golomb: If it was only a replacement it would. Absolutely. If they are replacing the whole unit though, it might not be and as far I know, you can correct me if I am wrong, I've never seen a thermal pane cellar window.

Ken Andrews: (inaudible) That was an example. Is there stuff like that that you discussed, . . . (inaudible Wes speaking at same time) that you have.

Wes Golomb: If there is, its inadvertent and I don't know about it. I mean, or . . . I can't think of it right off the top of my head. I've tried to put everything in here – clear as I can possible make it.

Ken Andrews: Another question.

Wes Golomb: By all means.

Ken Andrews: Probably at best, or the gentleman to my right mechanical rule, would you please explain the difference between circulating and non- circulating domestic hot water? Because I do not see the difference in here.

Wes Golomb: Ok. As I understand it, circulating domestic hot water is used mostly in apartments, so that there isn't the lag time for hot water. It circulates at each apartment, each apartment holds . . . am I correct?

Tedd Evans: Actually, the public code requires hot water to be re-circulated if the distance is more than 100 feet. So it is not restricted to apartment buildings. So if you have single family, if you have a run of domestic hot water that is more than 100 feet, it has to be re-circulated, which means there has to be a constant circulation between the water heater and that extension of the piping, so that when the water is drawn, at that remote location its at full temperature.

Ken Andrews: Understood. Are they talking about (inaudible – too fast). Can I find it anywhere? If I don't find it in the Plumbing Code and especially the Energy Code, am I going to be confusing people by putting it the Code.

Wes Golomb: It is in the Energy Code. There is a section in the Energy Code that says that circulating domestic hot water pipes shall be insulated, and that's where the convoluted

Ken Andrews: Agreed. But it doesn't say anything about water circulating.

Wes Golomb: That is right. That is not in the Code (both speaking at once)

Ken Andrews: (inaudible)

We Golomb: That is what . . . and I think I stated that . . . that I got . . . of all the comments I got from going around to people . . . I got more comments probably double the comments on that one more than anything else, that we should include . . . we should require pipes to be insulated when running through unheated space.

Chairman Clegg: Jerry Tepe.

Jerry Tepe: A question on that – it doesn't say when its running through unheated space.

Ken Andrews: That's right.

Jerry Tepe: What you are saying right now is all domestic hot water piping shall be insulated. Period. Circulating, non-circulating, heated space, non-heated space . . .

Wes Golomb: Um –hum (indicating yes)

Jerry Tepe: . . . outer space.

Wes Golomb: Outer space (inaudible)

Jerry Tepe: If that's the intent.

Wes Golomb: That's the intent – yes.

Jerry Tepe: Because otherwise . .

Wes Golomb: Thank you.

Jerry Tepe: . . . if you do it in one sentence (both talking at once – inaudible)

Wes Golomb: No. The intent is through unheated space.

?: Number two the word unheated needs to be . . . unheated space needs to be added in there.

Wes Golomb: Non-circulating domestic hot water pipes running through unconditioned spaces shall be insulated.

?: Something of that nature – yes.

Tedd Evans: Good point. Could I have a page number and a paragraph.

Wes Golomb: That would be page number 4 paragraph number C 2.

Chairman Clegg: Just for future, if you got a point of order on something like that you do not need to ask permission – just . . .

Wes Golomb: So I propose that we add running through unheated space or unconditioned space.

Chairman Clegg: Med you have questions.

Med Kopczynski: I have several. And this is just for my own understanding. And I have a general question, perhaps for the Chairman. If this is a Public Hearing for the public to react to this document, and if we are making changes on the floor of it, does the public really have an opportunity . . . does the general public, then have an opportunity to comment on these changes that are made? Does it come back for another Public Hearing?

Chairman Clegg: No.

Wes Golomb: For your information, there will be . . . this has always been done up until now by the PUC through their Rule Making which includes a technical session and a public hearing, which there will be, and judging from what I heard the last time, there are likely to be people there. Not that that resolves us of anything if we got a requirement to do something, but, but if you are concerned about a Public Hearing about it, having a chance to comment, there is going to be that forum point.

Med Kopczynski: And there's a couple of other questions. And the first is, these are changes to your existing Rules, and I have to admit, I haven't had time with my work load to compare it with the existing Rules to the Statutes, to the Codes in detail, to see where conflicts might be, and it . . . that issue is raised in my consciousness because of the comment that you made . . .

Wes Golomb: Absolutely (both speaking together)

Med Kopczynski: . . . for conflicts with 155:D. And I do worry about, saying grace on an Administrative Rule that has active conflicts with the Statute.

Wes Golomb: I can understand that.

Med Kopczynski: And I do not know how to resolve that. But beyond that, I guess I have got questions that are really more to clarifications and . . . once I have had an opportunity to look at the Code and Statutes perhaps this will become more evident, but perhaps also, your insight to this will help a lot.

Wes Golomb: Please ask.

Med Kopczynski: On . . . and in this case, I am using the red line version.

Wes Golomb: Ok.

Med Kopczynski: As . . . I would assume the numbers would change.

Wes Golomb: I hope they are the same.

Med Kopczynski: There's probably more in the other . . . on page two – you talk about residential buildings as in any detached 1 or 2 family dwelling.

Wes Golomb: Um-hum (indicating yes)

Med Kopczynski: So are you suggesting that town house buildings are not 1 or 2 family?

Wes Golomb: That's the first . . . any other dwelling, 3 stories or less in height, is B after that. So that would include town houses I presume and condos.

Med Kopczynski: So you are not sure.

Wes Golomb: I am sure. All residential . . . this is designed . . . this is meant to say all residential construction 3 stories or less. And if you look at C, that's where it includes . . . and this is from the original Rules and . . . I am not sure of the RSA. . .

Med Kopczynski: Wouldn't it be simpler just to follow the same definition in the International Code?

Wes Golomb: No. That separates A-1 from A-2 and that hasn't . . . doesn't have a 4,000 square foot allowance.

Med Kopczynski: And is that one of the conflicts with 155:B?

Wes Golomb: I don't think so.

?: I have a copy of 155:B.

Med Kopczynski: Is this appropriate or should I put this on . . .

Chairman Clegg: No – this is appropriate.

Ken Andrews: Mr. Chairman, (inaudible), questions on the same section, can we discuss them all at the same time?

Chairman Clegg: No. You already had your turn.

(Laughing)

?: You might as well go home Ken.

?: Does anybody want a copy of 155:B?

Chairman Clegg: No but I will take one.

Wes Golomb: If I may, as I understand it, the Legislative intent was to get rid of a lot of . . . what we now find to be conflict in here. And the way the language was written – the lawyer that I deal with at the PUC said that that didn't . . . her view was that didn't happen. So my assumption is that we are going to do simultaneously two things here. One is

we are going to change these Rules, and the other is we are going to deal with the conflict that already exists in some that perhaps are existing because of these Rules with Legislation. Is that a fair assumption?

Chairman Clegg: Once these Rules go through, you are correct. As with all the other changes we have done, we have to bring them all before the Legislature for Final Approval.

Wes Golomb: Great.

Med Kopczynski: May I continue?

Chairman Clegg: Go ahead.

Med Kopczynski: Same page, we've added the terms alterations and / or renovations

?: Back in the Code.

Med Kopczynski: So in this case what we are doing is being consistent with Code.

Wes Golomb: Yes.

Med Kopczynski: Page three. Where, when we talking about conditions, sun room additions. . .

Wes Golomb: Um-hum (indicating yes)

Med Kopczynski: . . . and we are talking about shall be thermostatically controlled as a separate zone at the existing system – what happens if I have a separate system?

Wes Golomb: I believe it says or a separate . . .

Med Kopczynski: I didn't read that.

Wes Golomb: As a separate zone of . . .

Chairman Clegg: Of the existing system

Wes Golomb: Yeup . . its not . . . shit. Ok, so that should be . . .

Med Kopczynski: Perhaps you could just end it at separate zone.

Wes Golomb: That's fine. That would imply that could be a separate system or a zone off the original system, that is fine. That is the intent of it. Thank you.

Med Kopczynski: Six. Completing six on page four, why would the Energy Code be concerned about unsafe conditions in compliance with the Energy Code? I didn't quite understand that.

Wes Golomb: That is right out of the Code language.

Med Kopczynski: Yea, but if its in the Code, why repeat it in the Rule?

Wes Golomb: That is a very good question. As I said to somebody else, this is a first for me. What I did, and I will tell you the process I did at arriving at the document you see before you. . . I took the old, the RSA, the old Code, and the old Rules, and I prepared them with 250 – 285 excuse me, the new Code, and I tried to follow the format that was in the old Rules. And where it cited something, I put that in, and there was one other place where I put something in that's already there, and that was the reference . . . not the reference . . . (inaudible) but the reference on the commercial side that we've already changed from 90.189 to 99. And I put it in the Rules specifically because I thought that this might be the place where someone might be looking to find something like that.

Chairman Clegg: Let me interrupt for a second. Med has a good point. And the cause of an awful lot of problems and the reason we have so much Legislation at times, because you are quoting was is today's if in 2 years, we change and adopt a new Code, you do not go and change your Rules, your Rules . . . you'll fight to protect your Rules, yet, it creates a conflict. So if you allow the reference to a Code, to remain open instead of repeating it as Med said, and there is another place I am sure he is going to get to on the same page, if you left it alone, and as Legislative changes we do not have to worry about how many places we have to go find it.

Wes Golomb: Ok. If you would, please tell me where that is again. I don't see it. On page three or four.

Med Kopczynski: On page four where it talks about creating an unsafe condition, you stipulate that that is coming out of the existing Code.

Wes Golomb: Yes it is.

Med Kopczynski: And just a general comment Wes is if the Statutes enumerated or the Code enumerates it, there is no reason to re-recite it for the reasons the Chairman has stated.

Wes Golomb: That is fine. I don't have a problem with that. Help me out here cause I am looking here trying to find it.

?: Top of page 8.

Chairman Clegg: I have Marta in the back which I am going to defer to for a second. Marta you had something to add?

Marta Modigliani: I did. I guess I'm trying to follow along too because it seems to be potential changes that will be incorporated into the Code, but that the language in E indicates to me that anything that is stated in a sub-paragraph would be an amendment to the Code. So if we were to incorporate that, we would just be saying we are amending it by . . . by what? You know what I am saying? If you look at the (inaudible) language . . . to everything that follows on page three, it leads me to believe that a very lay person, that anything that is created thereafter, is an amendment, and would be incorporated by reference.

Med Kopczynski: Its a deletion or an addition. As its stated. And you are absolutely correct. This is why I was significantly confused.

Wes Golomb: So what are you saying we ought to do Marta?

Chairman Clegg: Remove section 6. We are not trying to change the entire Code.

Wes Golomb: Ok. In the unmarked copy, that would be. . . ok that would be B.

Chairman Clegg: Well, if you remove 6 totally . . . then you still have something in Code. The Code already says that you have to comply with the Code, so what Marta is pointing out, it almost looks like we are adopting a new change to the entire Code, by using this Rule, and this Rule now supercedes the Code. And that is something we do not want to do.

Wes Golomb: I got ya. Ok.

Chairman Clegg: Which means you do not need 7 either. Ken.

Ken Andrews: Last I will patronize you for a minute and say, you have done a lot of work here, good work, a lot of hard work, because Code development is not easy for anybody. But, I have to ask you a question. If you think back over your development of this document, most recently, how much of it is repetitive, or how much is already spelled out in this book?

Wes Golomb: I think its a very small portion.

Ken Andrews: Ok. Let me rephrase it. Is there enough of it so that we would have to amend this document to take out any double references? Repetitive stuff. Any cross references that don't need to be in there. Because its already addressed in the Code. Specifically, what I am saying and Med said it first, and the Chairman certainly enforced it, we want to find a way to make it the most least confusing process possible.

Wes Golomb: Absolutely I agree with you.

Ken Andrews: And you know that the easiest way to do that is to remove any (inaudible). And I feel the need to re-work it enough, and have a document in front of us, all not worry about (inaudible) I have to worry about re-wording of the Code, because its already in the Code. There is a lot of the stuff in reviewing that I can get a better use out of (inaudible) better . . . better feel for it if I open a book instead of reading the Rules. I honestly don't believe in belongs in Rules, I believe in reference in the Rules, to this book (inaudible).

Chairman Clegg: If I may interrupt . . . Rules are suppose to be an explanation of how to enforce whatever the Code is. I would be careful not to say that the Code in the Rules that he is enforcing is the Energy Conservation Code 2000. Because as soon as we adopt the 2005 edition, this Rule is not in conformance with the law, so . . . there is enough lawyers to argue this but . . . I would go to court and argue that you don't have the authority to enforce the new Code, so that part of your Rule is no longer any good.

Wes Golomb: And indeed, isn't that why we are updating the old Rules, because the related to back 95 and (inaudible) 90.189?

Chairman Clegg: Part of the problem, when . . . the reason why we're where we are now, is because everybody had a different version, if you were a builder or even an inspector . . . there was no way you could follow everything the State had.

Med Kopczynski: Wes I think the intent for this discussion, is that you could probably take these Rules and boil them down to a couple of pages. Look at it that way.

Chairman Clegg: Because you could take Section 9 out – 9 on the same page 4 is repetitive of what already exists. And again, if something happens when we go to approve everything we did, and somebody makes a change in that . . . I mean if you want to reference RSA 674 as the local enforcement RSA that's fine. Assuming that we don't make it 674:51 (b).

Wes Golomb: I hear you loud and clear. We could take out 9 out too. I don't have a problem with that.

Chairman Clegg: Med you still have the floor and I apologize for . . .

Med Kopczynski: Not a problem Mr. Chairman.

Wes Golomb: Do you want take 9 out? I don't have a problem with that at all.

Chairman Clegg: I think it is repetitive.

Wes Golomb: Ok so we are taking 6, 7 and 9 out.

Chairman Clegg: Ken

Ken Andrews: We could spend the next 3 hours going through this document deciding what we are going to take out what we are going to leave in. Might I suggest that a foreman do that for us, bring it back, revised . . .

Chairman Clegg: Well, we can do that, but are there other questions that people have of areas in the document? Med you want to keep going on other items?

Med Kopczynski: I have one question, and one suggestion, and then I will relinquish the floor Mr. Chairman. On 8, on page 4, it says the following renovations need not comply with the provisions of this Code, provided the Energy use of the building is not increased as a result of these renovations. And it talks about storm windows and glass only replacements. Now as a practical matter, at least in my town, people do not obtain permits to replace this glass, and they do not obtain permits to put these storm windows on, so how is the . . . how is this issue judged.

Wes Golomb: The issue is judged, because in the Code it clearly says they are suppose to obtain a permit, or they're suppose to comply with the Code for a renovation, which would include these things.

Med Kopczynski: Well they are suppose to comply with the Code, but they may or may not get a permit.

Chairman Clegg: Well, let me throw something out here. If I am going to replace 10 windows in a house, I am replacing them because they are broken, and the last I knew, I didn't need a permit to do a repair.

Wes Golomb: You do need . . . you do need to meet the Code.

Chairman Clegg: Wait a minute, I understand what you are saying about the Code, but I am saying to you, that there is nothing in the Building Code that requires me to get a permit to replace a window. As long as I say they are broken, and believe me, when I take them out, they are busted . . .

?: that's usually while you are replacing them . . .

Chairman Clegg: And I do not know of any community, that forces you to get a permit to replace broken windows.

Wes Golomb: I agree with everything you are saying, because technically, if its not in there, they've got to replace those broken windows with a window that's point 35 U value or below, and I don't think that's that we want them to have to do. And I would rather have it spelled out, rather than even give the impression that people have to sneak around to . . . you know to do something. All it does is clear up a problem that may not even exist, but if it did exist, this would clear it up. And I respectfully disagree, not disagree but I respectfully think we ought to keep that in there for that reason.

Chairman Clegg: Med does that answer?

Med Kopczynski: It's not a very good answer, but it does answer it.

Tedd Evans: A point of order . . . it seems to me that some of these things are actually Code amendments, and why are we doing that in the Rule Making. Does that . . . make sense to me.

Chairman Clegg: That is exactly what we have been doing. We have been doing that since we started. We created Rules and amendments to the Codes since day one. If you . . . you're telling me that this particular part is an amendment to the existing Code?

Tedd Evans: Well, it seems to me, that the gentleman is describing what's in the Code, and then he is describing here the changes that (inaudible) to like the Code. Well we are not talking about these as Code amendments . . . as (inaudible – two people talking at once)

Chairman Clegg: I can tell you that he can adopt them as Rules, but if they are in violation of what we have already adopted under the RSA then they have no effect whatsoever. So you bring up a good point, and that is Section 8 is an amendment to the existing Code, it had no teeth, and can't enforce it. In fact, JLCAR attorney should pick up that its in violation or change in the existing law.

Wes Golomb: So for procedural point of view, let me ask a question. How do we accomplish something then. We have a situation here . . . let me speak to sun room addition, and its one of several. Where if we don't do something, right now, the way this reads, any sun room addition that is put into this State, that is greater than 40% glazing, and they are out there and being installed everyday, is illegal, they can't be put in by the Code. And my intent . . . I'm . . .

Chairman Clegg: I understand your frustration . . . and I can . . . let me just tell you what you need to do is the difference is take the Sections out of these Rules that are actual changes to the Code, bring them back to the Body as a change to the Code, we can adopt your sun room changes, and make them part of the Building Code, and your Rules still stay proper, by just explaining, how you are going to implement , or how you interpret certain things. So . . . anything in here that you need that is a Code change, you should bring back next month. We will have another Public Hearing as a Code change. And JLCAR attorney should be hitting you with the same thing. That it's a change in the Code and can not be done by Rules.

Wes Golomb: I am ok with that. I will tell you right from the start, its pretty obvious I am unsure too, this is a first for me, its a learning experience, and I would like some help in that process, because its not quite clear to me where we are gonna have to have it . . .

Chairman Clegg: Can we get some people to help? Med you will, John? Great. Marta you want to help?

Marta Modigliani: I think that the (inaudible) is correct. It think that you have the actual changes to the Code . . . that and you can, I suppose you can do it either way, but once this Board has approved the Code changes, is it something we want to highlight? What the Department of Safety does, is pursuant to . . . and then you could site that Building Code amendment . . . then its incorporated in the Code. If you highlight it (inaudible) the public (inaudible).

?: Like a resume?

Marta Modigliani: Absolutely, But I mean its certainly not (inaudible)

Wes Golomb: That's fine. I appreciate what you are saying. I don't have a problem with it. I am just trying to get from here to there, and this is new to me.

Chairman Clegg: Well, if we do that, we will separate the two. And we'll need a motion when we get out of Public Hearing to (inaudible) and to also have another Public Hearing next week – excuse me next month, for the actual Code changes you are looking for. It might make your travel through JLCAR a lot easier too.

Wes Golomb: They solve . . .

Chairman Clegg: . . . and your travel through the PUC hearings might be a lot easier. Are there any other questions? Jerry.

Jerry Tepe: Just a couple of things. To confirm what Wes is saying on the sun rooms, the International Code Council has recognized that that is a problem in the 2000 edition, it was largely corrected in the 2003 edition, which is out, so I would suggest as we write these changes, we look at the 2003 edition to make sure we are compatible with what is happening there to the extent that we can. And it is on-going, there probably will be some additional requirements in the 2006 edition. The second thing, respectfully disagree and to be on the record, all of Coos county is in Zone 16. I am not saying weather we should ignore that or not, I can see that the benefit of saying the whole State is one climate zone, but the Code, as written, specifically states that all of Coos County is in zone 16.

Chairman Clegg: So that would be another example of a Code change. James, I am sorry.

James Petersen: On C-2 on page 5 the non-circulating domestic hot water pipes shall be insulated to a minimum of R-4 in un-insulated spaces . . you said Wes, that you get a lot of comments regarding that. What was the reason for people wanting that?

Wes Golomb: Because of the loss of the heat loss to the hot water from standing, stand-by, and going through an unheated space. It was such a big Delta feed.

Chairman Clegg: Is that an airplane?

Wes Golomb: Is that what ?

Chairman Clegg: An airplane. A delta . . .

Wes Golomb: Could be – the difference in temperature between . . .

Chairman Clegg: I am only being a wise guy.

Wes Golomb: Ok fine. I misheard it.

James Petersen: I am not sure that that is a large consumer energy . . . because in most cases, when you have a short length of pipe, not required in a re-circulation, is typically a small pipe. And if you have a larger pipe, and its typically a longer pipe, you are required to re-circulation, and then you have to insulate. And then if its in an un-insulated space, freeze protection is probably going to be a higher priority, and then it will need to be protected from freeze protection reasons. I'm not . . . I'm a little conservative with respect to making changes to the Code, this one . . . it doesn't seem like an energy consumer to me. The simplification, although I understand its intent is simplification, I do not think I would be inclined to want to change the climate zones of the State. The con (inaudible – coughing) Coos County why that needs to be requirements for building in that harsher environment, I do not think I would be inclined to want to do that for energy conservation reasons. And that's my comments.

Chairman Clegg: Thank you. Tedd.

Tedd Evans: I don't know if its appropriate . . . but the comment I would make on the non-circulating domestic hot water pipes is that its a major departure on anything that has been done before, and would require essentially, all hot water pipes to be insulated in an unconditioned basement. And that is a lot of insulation throughout the State that is not being done, and has never been done before. Its a major change. And I just wanted to comment.

Chairman Clegg: Anyone else? Wes, thanks a lot. We are still in Public Hearing so . . .

Wes Golomb: May I ask one more question please?

Chairman Clegg: Sure.

Wes Golomb: I would just like to re-confirm what it is that we're gonna try and do here which is separate out portions that are repeating the Code . . .

Chairman Clegg: Removing things that actually repeat what's already in the Code. Separating out the bits that are actually 'changes' to the Code, and whatever is left, is your Rules.

Wes Golomb: Ok, So the bits that are 'changes' to the Code, are going to be changes to . . .that will be Legislative taken care of.

Chairman Clegg: That would be done here, as it has in the past. We would make the changes. All those changes we have been doing for the last year and a half, next year, have to be approved by the Legislature in order to remain in effect. So. you actually make the Code change – you can't change the Code through the Rules process. Ok. James.

James Petersen: One more comment, on C-1 I think its a nice gesture to try and simplify the Energy Code people by saying you know, mostly it boils down to an R-4 . . . but I am not so sure that that would be compelling enough to make a Code change. Maybe it would be helpful to people to simplify, but I don't know that it would merit changing the Code. So I would strike that from the list of things . . we want to try and do. Make it easier for people . . but . . .

Chairman Clegg: We can actually discuss that at the next Public Hearing.

Wes Golomb: I would like to discuss it. Because I'll tell you, the practical feel for this is, I have yet to see a builder with a copy of that book. (inaudible) the practical aspect of it. You know, by putting it here in a simplified version, makes you deal with it, and they will more likely, in my opinion, to deal with it. And that's my rational right wrong or indifferent.

Chairman Clegg: Ok. Thank you Wes.

Wes Golomb: Thank you very much.

Chairman Clegg: Is there anyone else who wished to speak at this Public Hearing? Seeing none, I will close the Public Hearing.

Chairman Clegg closed the PUBLIC HEARING. The Chair accepted a Motion to have a Public Hearing on Code changes proposed by the PUC and to hold a second Public Hearing on Exhibit 11. Chairman Clegg changed his mind and recessed the hearing on Exhibit 11 to 10:00 February 13, 2004. The sub-committee assigned to work with Wes on drafting the PUC rules and separate proposal to modify the state code will report to the Committee.

Wes is going to come back with Exhibit 11 – with changes for us to look at, and at the same time Wes will offer to the Board, a new Exhibit 12, which will then ask for a Public Hearing on.

BOARD MEETING:

Adoption of minutes of December 12, 2003:

Motion was made by Ken Andrews to adopt the minutes. **Motion** was **seconded** by Jerry Tepe. Vote was unanimous and so declared by Chairman Clegg.

OLD BUSINESS:

No Old Business to be discussed before the Board this month.

NEW BUSINESS:

Marta Modigliani: The Height and Area amendment/modification from last month Mr. Schaefer needed some clarification on three points . . . there may be instances where someone may actually have an application pending for a permit, and then there is a code amendment; or they have the permit approved, and then there is a code amendment; and then someone may be more advantageous by not having had the code amendment. He wanted to know if this whether or not this Board had decided what the applicability date would be in those instances, where there is pending application.

Chairman Clegg: Nobody in the State of NH has the ability to create a law that has an effect on the past. So the applicability date is the date that we adopted it. Jerry Tepe: Specifically, once a permit is issued, and the Code changes, it has no effect on the permit issued. It does not mean you can not go back if it is advantageous to your project and file an amended plan and get the approval under the amended plan, but if it is not to your advantage, once the permit is issued the Code generally does not applied in that change. Gary Bernier: if the permit has been issued, and there is a change, then the applicant is free to come in and try to amend the permit. Chairman Clegg: the Legislature said in order to give people time to get out of all the old rules and regulations they gave 1 year – anything that was in progress had a 1-year time frame to get in and get out.

Jerry Tepe: we held the hearings on the State Fire Code – where do they stand now? Marta Modigliani: The last Rulemaking did not adopt height and area limitations table..

Ken Andrews: he has been requested to come to the Chair of this Board, to see if it was ok, if the Chair or the staff, to create a letter – To Whom It May Concern – regarding specifically the adoption of the Mechanical Code by the State of New Hampshire. There are several states that are going thru the process of adoption, everyone seems to be looking at NH – and saying 'let's model ourselves after what they've done and do'. Chairman Clegg: Does anyone on the Board have a problem with Ken Andrews drafting a letter for us to sign. Seeing none – the Chair assigned Ken to the task.

OTHER BUSINESS:

There being no other business to be brought before the Board, Chairman Clegg accepted a **Motion** to adjourn. So moved – there being no opposition – so declared this meeting adjourned.